

STATE OF INDIANA)
) SS:
COUNTY OF LAPORTE)

IN THE LAPORTE CIRCUIT COURT

CAUSE NO. 46C01-~~0607~~-PL-231

STATE OF INDIANA,

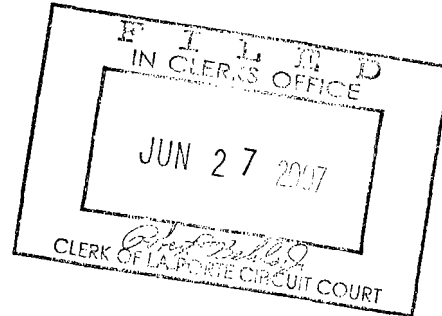
Plaintiff,

v.

MICHAEL J. EVERETT,
Individually and doing business as
1RST STEP WEB DESIGN, and
DIPLOMASANDMORE.COM, and

DAVID A. SCHOETTLIN,
Individually and doing business as
DOCUMENTPROFESSIONALS.COM,

Defendants.



NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER

To: **Michael J. Everett**
2388 North Wozniak Road
Michigan City, IN 46360

David A. Schoettlin
4238 West Dunes Highway
Michigan City, IN 46360-6654

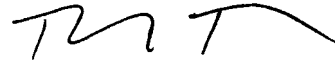
Please take notice on **Wednesday, June 27, 2007, at 10:00 o'clock a.m. (CST)**, or as soon thereafter as counsel may be heard, at the LaPorte Circuit Court, 813 Lincoln Way, LaPorte, Indiana, 46350-3429, the Plaintiff will, by the Motion attached hereto, move the Court for a temporary restraining order to restrain the Defendants, Michael J. Everett and David A. Schoettlin, their employees, agents, representatives, successors, and assigns, and any other person acting at their direction, from soliciting, manufacturing, or otherwise engaging in the sale, via the Internet or otherwise, of any documents that

purport to be high school or college diplomas or transcripts, or other certifications, whether from actual or fictitious high schools, colleges, universities, or other institutions, without obtaining prior written authorization from an authorized representative of the named high school, college, university, or institution, or otherwise engaging in any acts in violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*, and selling or otherwise transferring the domain names, www.DiplomasAndMore.com and www.DocumentProfessionals.com, to any third party, pending hearing on the Plaintiff's Motion for Preliminary Injunction, and for all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By:



Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

Office of Attorney General
Consumer Protection Division
302 W. Washington, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 233-3300

STATE OF INDIANA)	IN THE LAPORTE CIRCUIT COURT
) SS:	
COUNTY OF LAPORTE)	CAUSE NO. <u>46C01-0607-PL-</u>

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
MICHAEL J. EVERETT,)
Individually and doing business as)
1RST STEP WEB DESIGN, and)
DIPLOMASANDMORE.COM, and)
)
DAVID A. SCHOETTLIN,)
Individually and doing business as)
DOCUMENTPROFESSIONALS.COM,)
)
Defendants.)

MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION WITH NOTICE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, respectfully moves the Court pursuant to Rule 65 of the Indiana Rules of Trial Procedure and Ind. Code § 24-5-0.5-4(c), to issue a Temporary Restraining Order temporarily restraining the Defendants, Michael J. Everett, individually and doing business as 1st Step Web Design and DiplomasAndMore.com, and David Schoettlin, individually and doing business as DocumentProfessionals.com, from soliciting, manufacturing, or otherwise engaging in the sale, via the Internet or otherwise, of any documents that purport to be high school or college diplomas or transcripts, or other certifications, whether from actual or fictitious high schools, colleges, universities, or other institutions, without obtaining prior written authorization from an authorized

representative of the named high school, college, university, or institution, or otherwise engaging in any acts in violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*, and from selling or transferring the domain names, www.DiplomasAndMore.com and www.DocumentProfessionals.com, to any third party, pending hearing on the Plaintiff's Motion for Preliminary Injunction, and in support of its Motion states:

1. On June 27, 2007, the Plaintiff filed its Verified Complaint For Injunction, Costs, and Civil Penalties in this action, alleging the Defendants engaged in deceptive acts by knowingly soliciting or engaging in the sale of purported high school and college diplomas or transcripts without obtaining prior authorization from the named high school or college, in violation of the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.* The allegations of the Plaintiff's Complaint are incorporated herein and made a part of this motion by reference.

2. As shown by the Plaintiff's Complaint filed by the Plaintiff and the affidavits of Kerria (Hardwick) Bodin and Michael Ward filed herewith, the Office of the Attorney General conducted an investigation of the Defendants and learned the Defendants had solicited and/or engaged in the sale of purported high school and college diplomas or transcripts, as well as other certifications.

3. As shown by the affidavit of Mary Beth Myers, Registrar for Indiana University Purdue University Indianapolis, she has reviewed the diplomas and accompanying transcript sold to the Plaintiff by the Defendants, and the diplomas and transcript are fraudulent and contain numerous errors and/or misrepresentations.

4. Ms. Myer's affidavit also states the Defendants are not authorized by Indiana University to print diplomas and Mary P. Wesley is not an employee of Indiana University's Office of the Registrar.

5. If the Defendants, their employees, agents, representatives, successors, and assigns, or any other person acting at their direction, are not temporarily restrained/preliminarily enjoined from soliciting, manufacturing, or otherwise engaging in the sale, via the Internet or otherwise, of any documents that purport to be high school or college diplomas or transcripts, or other certifications, whether from actual or fictitious high schools, colleges, universities, or other institutions, without obtaining prior written authorization from an authorized representative of the named high school, college, university, or institution, or otherwise engaging in any acts in violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*, the Plaintiff believes irreparable harm will result during the pendency of this action.

6. If the Defendants are not temporarily restrained/preliminarily enjoined from selling or transferring the domain names, www.DiplomasAndMore.com and www.DocumentProfessionals.com, to any third party, pending final resolution of this matter, the Defendants may transfer the sites to third-parties who might continue to use the sites to solicit or engage in the sale, via the Internet or otherwise, of documents that purport to be high school or college diplomas or transcripts, or other certifications, which would result in continued violations of the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, and the Plaintiff believes irreparable harm will result during the pendency of this action.

7. Pursuant to the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1), it is unlawful for the Defendants to misrepresent the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the Defendants know or should reasonably know it does not have.

8. Pursuant to the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(2), it is unlawful for the Defendants to represent the subject of a consumer transaction is of a particular standard, quality, or grade, when it is not, and the Defendants know or should reasonably know it is not.

9. Pursuant to the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(7), it is unlawful for the Defendants to represent the Defendants have a sponsorship, approval, or affiliation in such consumer transaction they do not have, and which the Defendants know or should reasonably know that they do not have.

10. “Where the action to be enjoined is unlawful, the unlawful act constitutes *per se* ‘irreparable harm’ for purposes of the preliminary injunction analysis.” *Department of Financial Institutions v. Mega Net Services*, 833 N.E.2d 477, 485 (Ind. App. 2005) (citations omitted).

11. “When the *per se* rule is invoked, the trial court has determined that the defendant’s actions have violated a statute and, thus, that the public interest is so great that the injunction should issue regardless of whether the plaintiff has actually incurred irreparable harm or whether the plaintiff will suffer greater injury than the defendant.” *Id.* at 485-6.

12. A Temporary Restraining Order/Preliminary Injunction is necessary to prevent additional deceptive acts from occurring during the pendency of this action.

13. There is a substantial likelihood the Plaintiff will prevail on its Complaint in this action, and there is no adequate remedy at law.

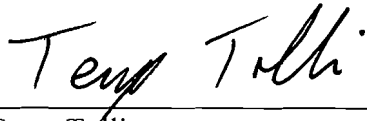
14. The Plaintiff is a governmental organization and is not required to offer security pursuant to Rule 65(c) of the Indiana Rules of Trial Procedure and Ind. Code § 4-6-3-2(b).

WHEREFORE, the Plaintiff requests the Court issue a Temporary Restraining Order/Preliminary Injunction, temporarily restraining the Defendants, Michael J. Everett and David A. Schoettlin, their employees, agents, representatives, successors, and assigns, and any other person acting at their direction, from soliciting, manufacturing, or otherwise engaging in the sale, via the Internet or otherwise, of any documents that purport to be high school or college diplomas or transcripts, or other certifications, whether from actual or fictitious high schools, colleges, universities, or other institutions, without obtaining prior written authorization from an authorized representative of the named high school, college, university, or institution, or otherwise engaging in any acts in violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*, and prohibit the Defendants from selling and/or transferring the following domain names: “www.DiplomasAndMore.com” and “www.DocumentProfessionals.com” to any third party, pending hearing on the Plaintiff’s Motion for Preliminary Injunction, and for all other just and proper relief.

Respectfully submitted,

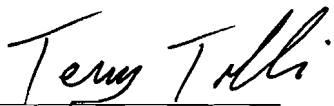
STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By:


Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

CERTIFICATE OF SERVICE

The undersigned hereby certifies the Office of the Attorney General personally served a copy of the above Notice and Motion for Temporary Restraining Order and Preliminary Injunction upon the Defendants, Michael J. Everett and David A. Schoettlin, and a copy of the above Notice and Motion was mailed by United States Mail, first class postage prepaid, to the Defendants, Michael J. Everett, 2388 North Wozniak Road, Michigan City, Indiana, 46360, and David A. Schoettlin, 4238 West Dunes Highway, Michigan City, Indiana, 46360-6654, all on this 22nd day of June, 2007.


Terry Tolliver

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302 W. Washington, 5th Floor
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Telephone: (317) 233-3300